

# DEPARTMENT OF TAXATION

## 2005 Fiscal Impact Statement

1. **Patron** Clarke N. Hogan

3. **Committee** House Finance

4. **Title** Small Tobacco Product Manufacturers  
Incentive Act

2. **Bill Number** HB 2919

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would require the Department of Taxation to use funds from small tobacco product manufacturers to make payments to tobacco farmers from whom the manufacturers have purchased domestic tobacco leaf.

This effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

#### 6a. **Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2004-05	\$0	0	GF
2005-06	\$59,400	1	GF
2006-07	\$47,200	1	GF
2007-08	\$48,100	1	GF
2008-09	\$49,000	1	GF
2009-10	\$49,900	1	GF
2010-11	\$50,800	1	GF

7. **Budget amendment necessary:** Yes.

Item(s): 284 and 286, Department of Taxation

### 8. **Fiscal implications:**

The provision of this bill requiring the Department to make payments to tobacco farmers using funds from small tobacco product manufacturers would have no impact on state revenues. It is estimated that the Department would incur administrative costs of \$59,400 in Fiscal Year 2006, \$47,200 in Fiscal Year 2007, \$48,100 in Fiscal Year 2008, \$49,000 in Fiscal Year 2009, \$49,900 in Fiscal Year 2010, and \$50,800 in Fiscal Year 2011 to implement this bill, including systems changes and one additional employee.

### 9. **Specific agency or political subdivisions affected:**

Department of Taxation

## **10. Technical amendment necessary: Yes.**

As this bill contains several technical drafting errors, an amendment in the nature of a substitute is recommended.

## **11. Other comments:**

### Master Settlement Agreement

On November 23, 1998, leading United States tobacco product manufacturers, called participating manufacturers (PMs) entered into the Master Settlement Agreement (MSA) with the Commonwealth and 45 other states. The agreement obligated PMs, in return for release from past, present and certain future claims against them, to pay substantial sums to the Commonwealth. Tobacco product manufacturers who are not parties to the MSA, called nonparticipating manufacturers (NPMs), must pay sums into a qualified escrow fund from which claims may be paid if such manufacturers are determined in future years to have acted culpably.

The escrow fund serves as a financial responsibility mechanism to guarantee a source of compensation and to prevent NPMs from becoming judgment-proof before liability may arise. The NPM statute must be diligently enforced to ensure a state is exempt from the application of the NPM adjustment contained in the MSA.

### Virginia's Nonparticipating Manufacturers Statute

The NPM Statute requires any tobacco product manufacturer selling cigarettes after July 1, 1999, who does not participate in the MSA to make deposits into a qualified escrow fund. The deposits are based on the number of cigarettes sold in Virginia. Under current law, escrowed funds may be released from escrow only under the following circumstances:

- To pay a judgment or settlement on any released claim brought against the NPM by the Commonwealth or any releasing party located in the Commonwealth; or
- To the extent that an NPM establishes that the amount it was required to place into escrow in a particular year was greater than the Commonwealth's allocable share of the total payments that such manufacturer would have been required to make in that year under the MSA had it been a PM, the excess may be released from escrow and revert back to the NPM; or
- Remaining funds shall be released from escrow and revert back to such tobacco product manufacturer 25 years after the date on which they were placed into escrow.

## Proposal

This bill would require the Department to use funds from small tobacco product manufacturers to make payments to tobacco farmers from whom the manufacturers have purchased domestic tobacco leaf. This bill is a companion bill to House Bill 2918, which would provide for the assignment of the NPM escrow funds to the Commonwealth.

This bill would require the Tobacco Indemnification and Community Revitalization Commission to coordinate actions related to the assignment of escrow payments to the Commonwealth by small tobacco product manufacturers and to oversee or assist in the payments made by the Commonwealth to the domestic leaf tobacco farmers who have a contract with the small tobacco product manufacturers who have executed an assignment with the Commonwealth.

This bill would require the Southside Virginia Tourism Development Authority to participate and provide assistance with the payment from the Commonwealth to tobacco farmers who have contracts for the sale of domestic leaf to small tobacco product manufacturers.

## Other Legislation

**House Bill 2918** would provide for the assignment of NPM escrow funds to the Commonwealth.

**Senate Bill 1332** would allow NPMs to assign funds from their escrow accounts to the Commonwealth. A portion of the escrowed funds would be used by the Commonwealth to make incentive payments to tobacco farmers.

**Senate Bill 1202** would modify the conditions under which escrow funds may be released to nonparticipating manufacturers.

**House Bill 2035** and **Senate Bill 1204** would impose an excise tax on cigarette manufacturers at the rate of 2 cents for every cigarette sold in Virginia.

**House Bill 2392** would authorize all counties to impose a local cigarette tax at a rate not to exceed 50 cents per pack.

**House Bill 2625** would increase the cigarette tax dealers discount from 2.5 cents per carton to 2 percent of the price of the cigarette stamps.

**House Joint Resolution 664** would require the Department of Taxation study the feasibility of establishing uniformity and consistency among Virginia's localities in the design and use of tax stamps for local cigarette taxes.

**Senate Bill 478** would amend Roanoke County's charter to authorize the imposition of a local cigarette tax at a rate not to exceed 15 cents per pack of twenty cigarettes.

**Senate Bill 876** would change the cigarette tax laws to provide consistency with the non-participating manufacturer reporting requirements and to enhance compliance and administration

**Senate Bill 1038** would provide that one cent of the 30 cents per pack cigarette tax be deposited into the Uninsured Medical Catastrophe Fund.

**Senate Bill 1137** would allow counties to impose a local cigarette tax at the state cigarette tax rate.

cc : Secretary of Finance

Date: 1/30/2005 JEM